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Chambers of Vincent L. Briccetti

9/21/23

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AASIM MCPHEE,

Plaintiff,

v.

SGT. N. LAINO; STATE OF NEW YORK;  
ILESHEMA THOMAS; CURTIS EGLOFF;  
BRIAN COLLINS; LATANYA TAYLOR;  
JACQUELINE WEBBER; BRENDAN  
HABERIM; and MELISSA CUOMO,  
Defendants.

-----x  
ORDER

22 CV 10095 (VB)

9/21/23

On July 5, 2023, plaintiff, proceeding pro se and in forma pauperis, filed a second amended complaint adding newly identified defendants Corrections Officers Illeshema Thomas, Curtis Egloff, Brian Collins, Latanya Taylor, Jacqueline Webber, Brendan Haberim, and Melissa Cuomo. (Doc. #18).

By Amended Order of Service dated July 6, 2023, the Court (i) summarized the relevant procedural history, (ii) instructed the Clerk to issue summonses and deliver to the U.S. Marshals Service all documents necessary to effect service upon the newly identified defendants, (iii) extended the Rule 4(m) deadline to ninety days after summonses were issued for these defendants, and (iv) stayed the time for all defendants to answer, move or respond to the complaint. (Doc. #21).

On July 7, 2023, summonses were issued as to the newly identified defendants. (Doc. #22). Accordingly, the Rule 4(m) deadline to serve these defendants is October 5, 2023.

On August 10, 2023, return of service unexecuted forms were docketed as to defendants Collins and Haberim, indicating a “mail endeavor” as to each of these defendants was returned to sender. (Docs. ##23–24). On August 21 and 24, 2023, return of service executed forms were docketed as to defendants Collins, Cuomo, Egloff, Thomas, and Webber. (Docs. ##25–27, 30–32). Further, on August 24, 2023, return of service unexecuted forms were docketed as to defendants Haberim and Taylor, which stated they were not on the “current duty roster” and thus Green Haven Correctional Facility refused to accept service on their behalf. (Docs. ##28–29).

Accordingly, it is hereby ORDERED:

1. By October 5, 2023, in the interest of efficient case management, the Office of the New York State Attorney General shall file a letter (i) informing the Court whether it will accept service on behalf of Corrections Officers Brendan Haberim and Latanya Taylor, and (ii) if it will not accept service on their behalf, explain its reasoning and provide alternative addresses where these defendants may be served.

2. All defendants' time to answer, move, or otherwise respond to the second amended complaint remains STAYED pending further Court Order.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppededge v. United States, 369 U.S. 438, 444-45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address listed on the docket.

Dated: September 21, 2023  
White Plains, NY

SO ORDERED:



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Vincent L. Briccetti  
United States District Judge